

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN and BORIS MIRKIN,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

No. 18 Civ. 2949 (ARR) (JAM)

v.

XOOM ENERGY, LLC and XOOM ENERGY
NEW YORK, LLC,

Defendants.

**DECLARATION OF MICHAEL D. MATTHEWS, JR.
IN SUPPORT OF XOOM's MOTIONS *IN LIMINE***

Michael D. Matthews, Jr., under penalty of perjury, declares as follows:

I am a partner of the law firm McDowell Hetherington LLP, attorneys for Defendants XOOM Energy, LLC and XOOM Energy New York, LLC. I submit this Declaration in support of Defendants' motions *in limine*.

1. Annexed hereto as **Exhibit 1** is a true and correct copy of Plaintiff's Opening Appellant's Brief, which was filed in the Second Circuit on January 18, 2019.

2. Annexed hereto as **Exhibit 2** is a true and correct copy of Plaintiff's Appellant's Reply Brief, which was filed in the Second Circuit on March 15, 2019.

3. Annexed hereto as **Exhibit 3** is a true and correct of relevant excerpts from the deposition of Susanna Mirkin dated August 30, 2022.

4. Annexed hereto as **Exhibit 4** is a true and correct copy of relevant excerpts from the deposition of Seabron Adamson dated November 8, 2022.

5. Annexed hereto as **Exhibit 5** is a true and correct copy of relevant excerpts from the deposition of Derya Eryilmaz dated November 15, 2022.

6. Annexed hereto as **Exhibit 6** is a true and correct copy of relevant excerpts from the deposition of Jason Loehde dated July 27, 2022.

7. Annexed hereto as **Exhibit 7** is a true and correct copy of relevant excerpts from the deposition of Ryan Park dated July 22, 2022.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 20, 2024.

A handwritten signature in black ink, appearing to read "Michael D. Matthews, Jr.", written over a horizontal line.

Michael D. Matthews, Jr., Esq.